

Formica



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: R.B.E. Inc.
File: B-241522
Date: January 3, 1991

Sam Zalman Gdanski, Esq., for the protester.
Herbert F. Kelley, Jr., Esq., Department of the Army, for the agency.
John Formica, Esq., and John Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

A bid which offers a 15-day minimum bid acceptance period in response to a sealed bid solicitation requiring 90 days is nonresponsive and may not be corrected after bid opening.

DECISION

R.B.E. Inc. protests the rejection of its bid as nonresponsive under invitation for bids (IFB) No. DAKF24-90-B-0190, issued by the Department of the Army for the correction of fume hood deficiencies at the Bayne-Jones Army Community Hospital in Fort Polk, Louisiana. The solicitation required a minimum bid acceptance period of 90 days; however, R.B.E.'s bid specified a 15-day acceptance period. R.B.E. contends that it should be allowed to correct its low bid because its 15-day acceptance period was an inadvertent clerical error.

We deny the protest.

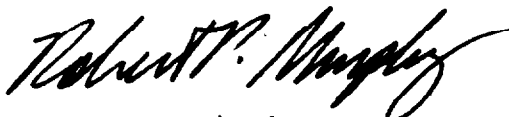
A minimum acceptance period in an IFB requires bidders to share the same business risks of leaving their bids open for acceptance by the government for the same amount of time. A bidder allowed to specify a shorter acceptance period would have an unfair advantage over its competitors by being able, on the one hand, to refuse the award after the bid acceptance period expires should the firm decide it no longer wants the award because of unanticipated cost increases, or, on the other hand, to extend the bid acceptance period after competing bids have been exposed if the firm wants the award.

050310/142908

Sac & Fox Indus., Ltd., B-231873, Sept. 15, 1988, 88-2 CPD ¶ 250. Consequently, an IFB requirement that a bid remain available for acceptance by the government for a prescribed period of time is a material requirement, and hence it must be complied with at bid opening. Elevator Control Serv., Elcon Enters., Inc., B-239360, June 6, 1990, 90-1 CPD ¶ 534. Since R.B.E.'s bid specified a 15-day bid acceptance period rather than the 90-day bid acceptance period required by the solicitation, its bid was nonresponsive and the Army properly rejected it and made award to the next low bidder. Id. Additionally, with regard to the protester's contention that its limitation of the bid acceptance period was an inadvertent error which it should be permitted to correct, a nonconforming acceptance period specified in a bid may not be treated as a minor irregularity or mistake which may be explained, changed, or corrected after bid opening. Id.

Finally, while it is true that the protester's bid price of \$69,716 is lower than the awardee's price of \$84,546, the importance of maintaining the integrity of the competitive bidding system outweighs any monetary advantage that the government might gain by accepting a nonresponsive bid. See Sac & Fox Indus., Ltd., B-231873, supra.

The protest is denied.


for James F. Hinchman
General Counsel